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CONSERVATION COMMISSION MEETING MINUTES

December 17, 2009

Beginning at 7:30 p.m.

City Hall, Rm 209

Meeting opened approximately 7:33 p.m.

MEMBERS PRESENT: I. Wallach, Chair, S. Lunin, Vice-chair, J. Hepburn, D. Dickson, D. Green, J. Sender, and N. Richardson (the latter arrived about 8:15 during discussion of 64 Allen)

MEMBERS ABSENT: R. Matthews

MEMBERS OF THE PUBLIC: See attached sign-in sheet

64 Allen Ave. –Beethoven Brook-NOI – DPW Maintenance on clogged pipe was followed by excavation of stream channel, then placement of concrete blocks along sides of stream and rip-rap altered stream bank character.

Report: The NOI filing states that, in conjunction with the pipe clean-out, 120 linear ft of bank was altered (by a combination of excavation, addition of rip-rap, and placement of large concrete blocks) and work in "land under water" without specifying how much was dredged or sq ft disturbed, in a 20 ft wide easement. The stream has been excavated in the past and rip-rap placed on bank (anywhere from 4-8 years previously) by DPW (see 310 CMR 10.53(k), i.e. drainage easements & watercourses). Planner thinks this goes beyond maintenance. If the presumptions of 10.54(3) are not overcome, any work on bank must meet standards of 10.54(4)(a). No information has been provided to overcome the presumptions, and the work exceeds 10% or 50 ft for any one lot (10.54(4)(a)5). DPW, in dredging the stream, piles the dredged soil and rip-rap back atop the bank, raising the bank but not stabilizing it. The raised banks may actually contribute to poor drainage from abutting properties and ponding on abutters' properties. Roots of trees and shrubs on the bank are torn or cut, destabilizing the bank further. Gravity and rainfall can cause significant chunks to fall back into the stream. The rip-rap does not add to the stability of the bank, partly because the bank is too steep and the rip-rap tends to roll down to the floor of the stream, carrying soil with it, and collecting leaves and twigs and creating blockages. The stone blocks may help prevent erosion but do nothing to protect the other interests. Recommendation: DPW remove the stone blocks, quit putting rip-rap on the bank, and stabilize the bank with bare-root plantings of appropriate native shrubs and trees and anchored jute netting (or similar product), and file for future work beyond flushing the pipe and excavating the flushed material. If Commission believes interests are protected by the work and agrees all is maintenance, then OOC may be issued with no or minimal conditions.

Meeting: Ted Jerdee, Superintendent of Utilities, and Fred Russell, Director of Utilities, were present to describe the project. DPW received calls about flooding in backyards of Beethoven and/or Allen Avenue(s) during August of 2009. The outlet of the pipe is at 64 Allen Avenue, and it took about three (3) weeks to schedule a clean-out of the ~800-ft culvert. The pipe was cleaned with a high-pressure water jet, which also eroded the bank on the Beethoven side of the stream, causing it to collapse. Granite blocks were put in place against the bank to stabilize the wall and keep it from collapsing into the stream adjacent to the outlet. Rip-rap was placed to create a ramp

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for the excavator used to remove material from the bottom of the stream, and further downstream along the bank to try to stabilize it. Environmental Planner said she heard about the work from an abutter, after the work was done. DPW did not consult with nor try to contact the Environmental Planner prior to or during the work. Following discussion, the commission asked if DPW would agree to continue to the January 28th meeting to come back with a plan to remove the granite blocks and restore and stabilize the stream bank with vegetation. They agreed.

CSX Vegetation Management Plan RDA continued – ROW spraying of herbicides in riverfront and buffer to bank of the Charles River, in bordering vegetated wetlands, and possibly floodzone, and in an area proximal to a public drinking water supply. Awaiting site visit to confirm wetland resource area(s);

Report: I have had no new information or contact.

Meeting: Email request from Stephen Herzog, AMEC, requesting continuance until March 25th, 2010, since snow may preclude a site visit during this time. He will contact the Env. Planner prior to that date to try to schedule a site visit.

134 Vine St., RDA continued– for plantings and alteration of vegetation in the 100 ft buffer to bordering vegetated wetland. Awaiting revised planting plan;

Report: A planting plan sketch was submitted but lacked critical information and showed plantings in the wetland. No new plan submitted as yet. Applicant asks to continue to January 28th meeting.

Environmental Science Club-David Backer re financial matters in 2010 and request for waiver.

Report: See letter in packet.

Meeting: David Backer asked for a slight increase in leader salaries, an increase in tuition, an age waiver for the student director, and to resume as Executive Director with no increase in salary. **Motion by D. Dickson to accept D. Backer's recommendations. S. Lunin seconded. Vote: All in favor. Motion carried. Motion by D. Dickson to request a waiver for an under-21 student director in 2010. Second by S. Lunin. Vote: All in favor. Motion carried.** Sr. Planner will send letter of request to the Board of Health.

296 Islington Rd. – RDA – Second floor addition and expansion of roof area while “winterizing” screened porch in riverfront to the Charles River and within 100 ft buffer to bank;

Report: Owner proposes to build second story addition atop the deck that was built under previous OOC (50 ft from top of bank) and expand a porch, which will expand the roof area and run-off in riverfront by a small amount. This seems simple, because no foundation work is proposed. However, the result will be an addition in riverfront that avoids an alternatives analysis and bypasses discussion of whether it meets the performance standards because the “foundation” was expanded with pilings (for deck supports) in a prior filing. This work is over or adjacent to a very steep slope down to the river and the new roof will block light and rain from allowing vegetation underneath. Will the owners be back in a few years for a new deck? I do not believe the CC can condition a Determination to prevent that. The alternative is to require a NOI and alternatives analysis. If I ignore the above concerns, recommend approve with conditions: 1) Any foundation work in connection with proposed second floor addition or porch expansion requires filing a NOI; 2) No storage of any materials related to the project in back of the house; 3) provide new plan showing actual resource areas, i.e. riverfront, bank (mean annual high water), 100 ft buffer to bank, and flood zone – since all prior delineations are expired, and plan does not show resource areas.



Meeting: Owner Lucia Marshall present to describe the project. Sr. Planner reported the slope looks like it needs more vegetation in places to stabilize it. Could roll work into RDA, but may need an Order to ensure work is done. Owner agreed to come back in January with a planting plan. No action on request for Certificate of Compliance. Owner agreed to continue RDA.

Charles River Lower Falls Bridge (P40) – NOI rescheduled -Bridge conversion to pedestrian use & path construction –DCR proposes to convert rail bed/trestle bridge over the Charles to pedestrian use and construct ~ 300 ft of stone dust pathway, ~200 ft of which will be in riverfront;

Report: Proposal is for addition of fill and concrete pad at end of bridge, replacement of cross ties with pedestrian decking and new ramp to a to-be-constructed 300 ft x 10 ft wide stone dust pathway, and addition of rip-rap and drainage swale for prevention of erosion and to otherwise reduce runoff rate to meet the stormwater regulations. Alternatives analysis and drainage calculations and report submitted, but I have not had time to review all. Project qualifies as “limited project” (see 310 CMR 10.53(6), since applicant says it cannot meet the performance standards for new or re-development in riverfront, and the project type is listed as limited project. The Commission may permit the project, provided it agrees that “adverse impacts from the work are minimized and that the design specifications are commensurate with the projected use and are compatible with the character of the riverfront area.” The project purpose is to convert existing P40 bridge to pedestrian use and construct pathway to Concord Street. Therefore, applicant says only alternative to project is the “no-build” alternative. However, modifications may be imposed. For example, path might be narrower, more mitigation may be required, modifications to erosion and sediment control may be required. I have asked for reduction or elimination of rip-rap, to be replaced with bank stabilization plans using bare-root plantings of shrubs and trees with anchored jute (or similar fabric). The proposed erosion and sediment control consists of haybales and silt fence, but I think other alternatives may be called for – haybales notoriously bring in weed seeds and it may be hard to entrench them on the steep slope. The “containment system” for catching debris under the bridge has not been specified to my satisfaction (nor how it will be removed!). I hope to have more information by the meeting.

Meeting: Planner given abutter notification receipts by Mike Howard after end of November meeting. Hearing opened with Dan Driscoll, DCR, Mike Howard, Epsilon Assoc., Greg Embaro, Simpson Gumperz, and Heger, and Mark Griffin, DOT (?) present to represent the project. D. Driscoll spoke about a historic vision of the parks since the 1800s. There is a planned trail from Washington Street to Commonwealth Avenue corridor. He said people need alternative trails/crossings, and the restoration of bridges connects corridors at a project cost of \$3 million from a unique funding situation that is unlikely to come again. A number of abutters asked to speak about the project (list attached), and comment letters will be attached to the minutes. The Environmental Planner had prepared a list of abutter issues that had some bearing on the WPA and its regulations. The Chair asked DCR to address these issues, as well as others raised by the Planner. DCR submitted drainage calculations too late to include in packet and new drawings to modify slope and omit rip-rap were submitted at meeting. In response to these issues, comments, and other commission questions, DCR representatives indicated it is/will:

No longer propose hard stabilization structures (rip-rap), but will need to grade the slope to 1:5:1, while avoiding any work in the floodplain.

Has modified its mitigation measures to use filter sock instead of haybales.

Provide a detailed specification for the containment structure for the contractor and submit it to the commission prior to installation (for removal of lead-bearing paint, washing of bridge, paint spray, and other potential contaminants).

ID areas to install native trees and plantings – will develop plan.

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Install nesting boxes for bird habitat.

For stormwater management, DCR will

Install vegetated swales across the path to compensate for runoff from the path.

Provide for the presence of a Licensed Site Professional (LSP) during any excavation (but not during the actual bridge work).

The hearing resumed at 8:57, following a 5-minute recess while most of the abutters left. The commission would like to continue to January 28th, to put together a list of conditions for an OOC. DCR consented.

Violations --Updates:

35 Kingswood Rd. – alteration of bank of Charles – restoration area planted with 20 new lowbush blueberry bushes. Will re-check spring of 2010;

15 Harwich Rd. –Violation –Have asked DEP to assist; nothing new.

34 Farwell St. – Violation – Received complaint; Assessor's check found new house and storage sheds since 2000/2001 with no permits. Buildings are in riverfront and partly on DCR property.

46 Farwell St. – Violation – update.

Meeting: Marc Welch has provided quite a bit of wood chips, and Mr. D'Agostino's crew will be spreading them on Friday. It is not enough to cover all the path, but Mr. D'Agostino said he is willing to send his crew back to spread more next spring, if we can get some more wood chips.

Certificates of Compliance

214 Concord St. - As-built and certification letter received. Some changes, but increase in work area offset by removal of asphalt at side of house. Asked owner to come and discuss changes.

Meeting: Mr. DaSilva called to say he cannot make it tonight, but will be at the Jan. 28th meeting.

64 Kingswood Rd. – OOC expired in 2006. As-built and certification letter received. Dock not removed from the water.

Meeting: During site visit, Planner observed that dock is back in the water. There is a 'dock-master' equivalent – John Lojek, of ISD, but there is not really a procedure in Newton. Planner should send a violation letter and no action on the Request for a Certificate of Compliance at present.

296 Islington Rd. – OOC expired in Sep. 2002 (?) – no record of extension. As-built and certification letter received. Concrete steps/stoop added by contractor was not previously approved and has been removed. A small amount of peastone and a couple of landscape timbers added to steps and landing area will be removed by time of meeting (these are in area shown on plan as "wetland" and in FEMA floodzone). The original OOC required the floating dock and boat be stored off the bank. Part of dock and boat are stored off the bank. Special condition requires "The slope between the yard and the Charles river shall be planted with material capable of stabilizing the bank and preventing erosion and sedimentation of the wetland." No planting plan in file. Owner says she planted some strawberries.

Meeting: Owner Lucia Marshall present and described the project. Owner will come back with additional plan to stabilize slope (see above).

Announcements & General Business:

Management Plan – Dec. 7th meeting report.

Meeting: D. Green reported that comments submitted from commission members were discussed and incorporated as appropriate. J. Sender handed out a packet of materials for assessment of conservation areas.

Open Space Plan – considerations and member to work on committee and with Conservators?

November 19th, 2009 Meeting Minutes for approval.

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Meeting: J. Sender said she was left off the list of members present-minutes so amended. **D. Dickson moved to approve minutes as amended. Second by S. Lunin. Vote: All approved. Motion passed.**

Outstanding issues – discussion

Performance Bonds – in light of MACC newsletter article – R. Matthews to consult with DEP re legality of bonds with no wetland ordinance and if offered by applicant and not required by CC.

Meeting: D. Green consulted on issue of performance bonds. Attorney McGregor advised the commission can accept a performance bond if one is offered. It may be rescinded at any time by applicant if voluntary, though.

Non-criminal ticketing – must be re-written.

Anne Phelps, Sr. Environmental Planner

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